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SENATE BILL 2375 By
Williams

HOUSE BILL 2263
By Hargett

AN ACT to amend Tennessee Code Annotated, Title 29 and Title 71, relative to civil actions for public fraud and abuse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding Sections 2 through 10 of this act as a new chapter thereto.

SECTION 2. A citizen of Tennessee may bring a civil action for any illegal activity involving an official of the state of Tennessee acting in such person's official capacity, or any activities involving state or local governmental funds which are in violation of the criminal or civil code of this state or the United States or any regulation intended to protect the public health, safety or welfare.

SECTION 3. The action shall be brought in the name of the state of Tennessee. The action may be dismissed only if the court and the attorney general and reporter give their written consent to the dismissal.

SECTION 4. A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the attorney general and reporter. The complaint shall be filed in camera, shall remain under seal for at least sixty (60)

days, and shall not be served on the defendant until the court so orders. The state of Tennessee, through the attorney general, may elect to intervene and proceed with the action within forty-five (45) days after it receives the complaint and any accompanying information.

SECTION 5. Upon expiration of the sixty (60) day period, the attorney general shall:

(1) Proceed with the action, in which case the action shall be conducted by the office of the attorney general; or

(2) Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

SECTION 6. When a person files an action under this chapter, no person other than the attorney general can intervene in such action or bring a related action based upon the facts upon which such action is based.

SECTION 7. (a) If the attorney general proceeds with the action, the attorney general shall have sole responsibility for prosecuting the action.

(b) The attorney general may dismiss the action over the objection of the person initiating the action if the person initiating the action has been given notice and an opportunity to be heard by the court.

(c) The attorney general may settle the action over the objection of the person initiating the action if the court determines the proposed settlement is, under the circumstances, fair and adequate. Upon the showing of a good cause, the hearing to determine settlement issues may be heard in camera.

(d) If the attorney general decides not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the attorney general so requests, the attorney general shall be served with all copies of all pleadings filed in the action and shall, at state expense, be furnished with all copies of deposition transcripts and other discovery materials.

SECTION 8. If the attorney general proceeds with an action brought by a person pursuant to this chapter, such person shall receive twenty percent (20%) of the judgment or settlement of the claim. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessary, plus reasonable attorney's fees. All such expenses, fees and costs shall be awarded against the defendant.

SECTION 9. If the attorney general does not proceed with an action the person bringing the action or settling the claim shall receive thirty percent (30%) of the judgment.

SECTION 10. Any person who initiates an action pursuant to this chapter who is convicted of a criminal offense arising out of his or her role in this action shall not be eligible to receive any proceeds.

SECTION 11. This act shall take effect July 1, 2000, the public welfare requiring it.